



## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[212A2100DD/AASS003600/A0T902020.999900.253G]

### Cayuga Nation of New York; Alcoholic Beverage Control Ordinance

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

---

**SUMMARY:** This notice publishes the liquor control ordinance of the Cayuga Nation of New York. The liquor control statute regulates and controls the possession, sale, manufacture, and distribution of alcohol in conformity with the laws of the State of New York.

**DATES:** This Ordinance is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Ms. Rebecca J. Smith, Tribal Relations Specialist, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214, Telephone: (615) 564-6711, Fax: (615) 564-6701; or Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS-4513-MIB, Washington, DC 20240, Telephone: (202) 513-7641.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the Federal Register notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. The Tribal Council of the Cayuga Nation of New York duly adopted the Cayuga Nation Alcoholic Beverage Control Ordinance on August 2, 2016, and subsequently amended it by resolution on December 5, 2017.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs (Department of the Interior Departmental Manual, 209 DM 8). I certify that the Tribal Council of the Cayuga Nation of New York duly adopted the Cayuga Nation Alcoholic Beverage Control Ordinance on August 2, 2016, and subsequently amended it by resolution on December 5, 2017 to clarify language.

The Cayuga Nation Alcoholic Beverage Control Ordinance reads as follows:

**CAYUGA NATION OF NEW YORK**  
**ALCOHOLIC BEVERAGE CONTROL ORDINANCE**

**December 5, 2017**

**Article-1 Introduction, Manufacture, Sale, Distribution and Possession**

The manufacture, introduction, sale, distribution or possession of alcoholic beverages within Indian country as that term is defined in 18 U.S.C. 1151 under the jurisdiction of the Cayuga Nation of New York (the “Nation”) shall be lawful, provided that such manufacture, introduction, sale, distribution or possession is in compliance with the laws, regulations and ordinances of the Nation, which, in accordance with 18 U.S.C. 1161, shall at all times conform with the laws, regulations and ordinances of the State of New York and of the United States. Without limiting the generality of the foregoing in any way, the possession of alcoholic beverages by, or the sale or distribution of alcoholic beverages to anyone, under the age of twenty-one (21) is expressly prohibited.

**Article 2-Alcoholic Beverage Control Commission**

A. The Cayuga Nation Alcoholic Beverage Control Commission (the “Commission”) is hereby established by this Ordinance. The Commission shall be the sole Nation regulatory body with jurisdiction over, and shall possess the authority to control, the manufacture, possession, sale, distribution and consumption of alcoholic beverages within Indian country under the Nation’s jurisdiction.

B. The Commission shall consist of at least three (3) but not more than five (5) members each of whom shall be appointed by the federally-recognized Council of the Cayuga Nation (hereinafter referred to as the “Authorized Governing Council of the Nation”) which shall also have the power to appoint a Chairman of the Commission. Any individual twenty-one (21) years of age or older shall be

eligible to serve on the Commission regardless of whether he or she is a citizen of the Nation, provided the Authorized Governing Council of the Nation determines that: (i) there would be no apparent conflict of interest created by the individual's appointment, and (ii) a background investigation of the individual has been performed and the results of that investigation are deemed satisfactory. Further, a majority of the members of the Commission shall, at all times, consist of individuals who are not members of the Authorized Governing Council of the Nation.

C. The term of office for each member of the Commission shall be two (2) years. A member of the Commission may serve more than one term on the Commission. Nevertheless, a Commission member may be removed, for cause, by the Authorized Governing Council of the Nation prior to the expiration of his or her term.

### **Article 3: Commission Powers and Duties**

The Commission, in furtherance of this Ordinance, shall have the following powers and duties:

A. To regulate and control the manufacture, sale, possession, distribution and consumption of alcoholic beverages on all Indian Country under the Nation's jurisdiction.

B. To adopt, publish and enforce rules and regulations governing: (a) the appointment of individuals to serve as Chairman and as officers of the Commission including but not limited to a President and a Secretary/Treasurer, and to delegate to such officers those executive, management, and administrative functions it deems appropriate, (b) the manufacture, sale, possession, distribution and consumption of alcoholic beverages on all Indian Country under the Nation's jurisdiction, and (c) all matters pertaining to the authority conferred upon the Commission by this Ordinance.

C. To authorize officers, employees, security personnel, and such other persons as shall be reasonably necessary, to enforce the rules and regulations of this Ordinance and perform its functions.

D. To adjudicate all alleged violations of this Ordinance, in accordance with Article 8 of this Ordinance and all other applicable provisions of Nation law.

### **Article 4: License Required**

No person shall manufacture or sell at wholesale or retail, any alcoholic beverages on Nation reservation lands, or within any Indian Country, under the jurisdiction of the Nation unless such person has been duly licensed by the Commission.

#### **Article 5: License Application**

No license shall be issued under this Ordinance to any person unless such person possesses the qualifications and satisfies the conditions set by the Commission. Any person or persons desiring a license under this Ordinance shall file a sworn application for such license with the Commission. The application shall include, among other things, a full and complete showing of the following:

A. Each person who applies for a license to manufacture or sell alcoholic beverages under this Ordinance shall, if such application is approved, be required to pay a license fee in accordance with the most recent license fee schedule published by the Commission. Fees for a license issued pursuant to this Ordinance shall be remitted to the Secretary/Treasurer of the Commission. Such fees shall be deposited by the Commission in the general fund of the Nation.

B. Proof satisfactory to the Commission that the applicant is not a member of the Commission and that he or she satisfies each of the licensing requirements established by the Commission.

The denial of an application for a license under this Ordinance may be appealed, within thirty (30) days of such denial, by filing a Notice of Appeal with the Authorized Governing Council of the Nation. A copy of such Notice must be concurrently served upon the Commission and the appellant must follow all rules and procedures for prosecuting the appeal that are established by the Authorized Governing Council of the Nation. The disposition of the appeal by the Authorized Governing Council of the Nation shall be final and non-appealable.

#### **Article 6: License; Terms and Conditions**

A. A license issued by the Commission pursuant to this Ordinance shall be for a term of one (1) year, commencing on the date of issuance.

B. No transfer, conveyance or assignment of a license issued by the Commission pursuant to this Ordinance may occur without the prior written consent of the Commission.

#### **Article 7: Issuance of a License**

A license shall be issued to the applicant by the Commission only after such applicant's application has been approved by the Commission.

**Article 8: Violations; Fines; Seizure; Hearing; Appeal Rights**

A. Any person who violates this Ordinance or any rule or regulation promulgated pursuant thereto shall be subject to a fine not to exceed \$500 per violation as civil damages to defray the Commission's cost of enforcing this Ordinance. In addition to any fine so imposed, any license or permit issued hereunder may be suspended or revoked by the Commission for the violation of any of the provisions of this Ordinance, or rules or regulations promulgated thereto.

B. Beverages containing alcohol that are manufactured, sold, distributed or possessed contrary to the terms of this Ordinance are hereby declared to be contraband. The Commission, on a majority vote, may authorize any officer of the Commission or any other individual it deems to be qualified, to enforce this Article 8. Any individual who is authorized by the Commission to enforce this Article 8 shall have the authority to seize all contraband. All contraband seized shall be preserved in accordance with applicable Nation and State law. Upon being found in violation of this Ordinance by the Commission, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Nation, subject to such party's hearing and appeal rights, as described herein.

C. The Commission shall grant to all persons: (i) a hearing regarding any violations, fines, license suspensions or contraband seizures under this Ordinance, and (ii) all the rights and due process granted by the Indian Civil Rights Act, 25 U.S.C. 1302, *et seq.* Notice of a Commission hearing regarding an alleged violation of this Ordinance shall be given to the affected individual(s) or entity(ies) by certified mail at least ten (10) days in advance of the hearing. The notice will be delivered in person or by certified mail with the Commission retaining proof of service. The notice will set out the rights of the alleged violator, including but not limited to the right to an attorney to represent the alleged violator, the right to speak and to present witnesses and to cross-examine any witnesses against them.

D. Any adverse determination made by the Commission may be appealed within thirty (30) days of such determination by the alleged violator by filing a Notice of Appeal with the Authorized Governing Council of the Nation. A copy of such Notice must be concurrently served upon the

Commission. The disposition of the appeal by the Authorized Governing Council of the Nation shall be final and non-appealable.

#### **Article 9: Severability**

If a court or other judicial body of competent jurisdiction invalidates any part of this Ordinance, all valid parts that are severable from the invalid part shall remain in effect. If a part of this Ordinance is invalid in one or more of its applications, that part shall remain in effect in all valid applications that are severable from the invalid applications.

#### **Article 10: Criminal Jurisdiction**

This Ordinance does not in any way confer upon the Nation criminal jurisdiction over non-Indians.

#### **Article 11: Interpretation**

A. Sovereign Immunity. By enacting this Ordinance, the Nation does not waive in any respect its sovereign immunity or that of its agents in any manner, under any law, for any purpose, or in any place.

B. No Right of Action. This Ordinance does not create any right, cause of action, or benefit enforceable at law or in equity by any person against the Nation, its agencies, or any of its officers or employees, or any other person.

C. Not Subject to Modification. This Ordinance is not subject to modification in any state or federal court or by any authority outside the Cayuga Nation of New York.

#### **Article 12: Effective Date**

This Ordinance is effective thirty (30) days after its publication in the Federal Register.

**Bryan Newland,**

*Principal Deputy Assistant Secretary – Indian Affairs.*